

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Petition for Rulemaking to</b>	)	
<b>Implement Mandatory Minimum</b>	)	<b>CG Docket No. 02-386</b>
<b>Customer Account Record Exchange</b>	)	
<b>Obligations on All Local and</b>	)	
<b>Interexchange Carriers</b>	)	

To the Commission:

**Comments of:**

**THE OKLAHOMA RURAL TELEPHONE COMPANIES**

**Atlas Telephone Company  
Beggs Telephone Company  
Cherokee Telephone Company  
Chickasaw Telephone Company  
Cimarron Telephone Company  
Cross Telephone Company  
Dobson Telephone Company  
McLoud Telephone Company  
Pioneer Telephone Cooperative, Inc.  
Pottawatomie Telephone Company  
Salina-Spavinaw Telephone Company  
Shidler Telephone Company  
Valliant Telephone Company**

**January 21, 2003**

The above-referenced Incumbent Oklahoma Rural Telephone Companies (collectively "Oklahoma RTCs"), by and through their attorneys, submit these initial comments in response to AT&T Corp., Sprint Corporation and WorldCom, Inc.'s Petition for Rulemaking requesting the Federal Communications Commission ("Commission") adopt mandatory minimum Customer Account Record Exchange ("CARE") obligations

on all local and interexchange carriers. In short, the Commission should reject the Petitioner's request as set forth below:

**I. THE PETITIONER IXCS' REQUEST SHOULD BE REJECTED DUE TO THE FOLLOWING:**

- **The Proposed CARE Standards Would Interfere with Existing Contractual Arrangements;**
- **The Proposed CARE Standards are Discriminatory and Impose Additional Obligations on the LECs;**
- **The Proposed CARE Standards are Overly Broad, Unreasonable and Will Result in an Undue Burden to the Oklahoma RTCs;**
- **The Proposed CARE Standards are Anti-Competitive.**

In support of its comments, the Oklahoma RTCs state as follows:

**a. Contractual arrangements currently exist for the exchange of CARE information.**

The Petitioner IXCs' claim they lack the essential customer data information to provide seamless customer service and urge the Commission to require all LECs to provide customer information to the IXCs. Currently, the exchange of customer CARE information is provided through contractual arrangements between LECs and the IXCs. The Rural LECs currently provide CARE information to the IXCs either pursuant to their Billing and Collection Agreements, or individual maintenance agreements. If the IXC has not entered into these agreements with the LECs, they have a direct business relationship with their long distance customers. Through this business relationship, the IXCs directly bill their customers, and have acquired the necessary information they need to provide customer service to their customers.

Absent a contractual relationship with the IXCs, it is not the responsibility of the LECs to provide IXCs with their customer CARE information. The Petitioner IXCs even go as far to state that the adoption of mandatory minimum CARE standards is necessary

to ensure the exchange of customer information in a manner that is most beneficial to customers and least burdensome to the carriers, including minimizing start-up costs for all carriers.<sup>1</sup> In essence, what the IXC's are proposing is that the Commission require LECs to provide them their customer information absent the appropriate contractual relationship with the LEC, and without compensation, thus shifting the IXC's costs and responsibilities to the LECs to manage their customer database.

**b. It is discriminatory for the Commission to adopt rules and regulations that impose additional obligations on the LECs for the benefit of the IXC's.**

The Petitioner IXC's take the position that the FCC has the authority to mandate minimum CARE standards. In support of this position, the Petitioner IXC's state that since the LECs have the obligation to provide equal access to long distance carriers under 47 U.S.C. §251 (b), then they must also provide IXC's with their own customer information without compensation.<sup>2</sup> This argument is wrong and contrary to the Telecommunications Act. There is no free lunch. Even the pro-competitive Telecommunications Act does not require carriers to provide services without compensation. Under Section 251(b) (3), LECs have a duty to provide dialing parity to competing providers of telephone exchange and telephone toll service. This does not require the LECs to provide IXC's customer CARE information, nor provide a service to the IXC without compensation. Additionally, while LECs are obligated to provide the duties under Section 251(b), they are not required to provide them for free.

Codifying the proposed CARE standards is also a deviation from this Commission's policy of promoting contractual relations between carriers. As recently as October, 2002, this Commission found that individual negotiated contractual agreements

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<sup>1</sup> Petition for Rulemaking at pps. 7-8.

<sup>2</sup> Petition for Rulemaking at p.10.

between competitors is consistent with the pro-competitive, deregulatory framework set forth in the Act.<sup>3</sup> This Commission recognized the statutory balance between the rights of competitive LECs to obtain interconnection terms pursuant to the Act and removing unnecessary regulatory impediments to commercial relations between incumbent and competitive LECs. *Id.* The codification of the CARE standards would impede commercial relations between carriers, departing from this Commission's standards, and impose a 'one size fits all' standard for all carriers. This is contrary to the intent of the Act.

The Petitioner IXC's further state that since the Commission has authority to establish preferred carrier change (PIC) procedures under Section 258 of the Telecommunications Act of 1996<sup>4</sup>, then the FCC has the authority to mandate CARE procedures. Again, this argument is incorrect. The FCC's rules regarding subscriber carrier selection changes and rules concerning unauthorized changes of consumer long distance carriers were implemented to eliminate the practice of "slamming".<sup>5</sup> The FCC specifically states that, "The goal of section 258 is to eliminate the practice of "slamming," which is the unauthorized change of a subscriber's preferred carrier." *First Order on Reconsideration* at Para 1. The FCC's rules were promulgated to protect the consumer, not benefit the carriers. While the rules strengthen the procedures by which all telecommunications carriers must obtain customer verification of preferred carrier change requests, the rules do not impose obligations to perform duties for IXC's absent

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<sup>3</sup> *In the Matter of Quest Communications International Inc., Petition for Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Section 252(a)(1)*. WC Docket No. 02-89; Released October 4, 2002.

<sup>4</sup> Petition for Rulemaking at p. 10; 47 U.S.C. §258(a). Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

<sup>5</sup> *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of*

compensation. For example, while the FCC rules require LECs to execute IXC PIC change requests, the Commission has allowed the LECs to recover their costs by imposing a PIC change charge. The proposal of the Petitioners results in the LEC being an agent of the IXC, without an agreement or compensation. In the *First Order on Reconsideration*, the FCC acknowledged that carriers may designate other carriers to act as their agents in resolving slamming disputes, and acknowledged the voluntary implementation of the Industry's Ordering and Billing Forum. However, this is not a mandate<sup>6</sup>. For the FCC to mandate carriers to implement the proposed CARE guidelines would result in interfering with the contractual arrangements between carriers, and impose an undue burden on the small Oklahoma RTCs without appropriate compensation. In short, the Petitioners are simply seeking to have another carrier perform their customer service work without paying proper compensation, and disguising this request as being essential to protect consumers.

As stated above, individual carrier CARE information is provided to the IXCs pursuant to either Billing and Collection Agreements or individual maintenance agreements. These agreements provide compensation to the Oklahoma RTCs for the assimilation and dissemination of customer information for the IXCs. Pursuant to these contractual arrangements, the Oklahoma RTCs provide the IXCs customer information such as Billing Name and Address ("BNA") Information, PIC change information, and disconnection information. The IXCs have made the choice to either have a direct business relationship with the customer, or contract directly with the LEC to act as their agent. The Oklahoma RTCs are providing a service for the IXCs that is compensable.

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*Consumers Long distance Carriers*, CC Docket No. 94-129 , *First Order on Reconsideration*, Released May 3, 2000.

<sup>6</sup> *First Order on Reconsideration* at footnote 85.

The adoption of the proposed minimum CARE procedures would result in the FCC creating excessive rules and bureaucratic busy work that overrides contractual agreements among communications companies.

**c. The Petitioners' proposal is overly broad, unreasonable and will result in an undue burden to the Oklahoma RTCs.**

The *Minimum CARE Standards Document* proposed by the Petitioners would result in an undue, costly, and time consuming burden for the small Oklahoma RTCs. The Petitioners are requesting that timeliness thresholds should be adopted for the transmission of customer information to the IXC's such as LEC customer connection and disconnection data; notification of customer transfers to another LEC; any changes in customer Billing Name and Address information ("BNA"); and PIC change and dispute information. This list is not all inclusive. The Petitioners have even proposed a timeline for submission of CARE information to IXC's, and 'curing' procedures for the LEC's failure to submit timely and accurate CARE information to the Petitioners' expectations. This is unreasonable. The Oklahoma RTCs do not have the manpower or resources to comply with the Petitioners' demand for this information. Compliance with this proposal would result in the small Oklahoma RTCs having to devote a great amount of on-going time and expense to comply. The Petitioners request goes above and beyond obligations in existing CARE contracts with the Oklahoma RTCs. As set forth above, the Petitioners are attempting to codify contractual obligations, which results are contrary to the Act, impedes commercial relations between the carriers, and results in the LECs providing services for the IXC's at no charge.

**d. The Petitioners' proposal is anti-competitive.**

The Petitioners' proposal harms the customer and has anti-competitive results for the IXC's with affiliates. With the Commission's implementation of Customer Proprietary Network Information rules<sup>7</sup>, carriers may utilize the 'opt-out' approach to disclose CPNI to their affiliated entities providing communications related services. The FCC has implemented safeguards to protect the consumer and adopting the CARE standards will circumvent the FCC's intent. For example, assume that a customer of a LEC changed to a different local exchange provider. Under the proposed CARE guidelines, the LEC notifies the IXC that serves the customer that the customer has changed LECs. In this scenario, the IXC has an affiliate that is also competitive LEC. If the IXC customer has given their permission to share CPNI information, the IXC could share customer CPNI information with its affiliated CLEC to directly market the customer. This procedure could result in information being released that was not intended to be by the customer, especially if the customer had not given express customer authorization to disclose this type of information to third parties. This would be an unintended consequence of imposing the mandatory CARE guidelines. This information should be acquired upon voluntary customer disclosure directly to the IXC's pursuant to their existing business relationship with their customers.

The adoption of the proposed CARE standards will also result in an anti-competitive opportunity for IXC's that have a CLEC affiliate. These IXC's will receive customer information that other competing carriers will not, thereby giving the IXC with the CLEC affiliate a competitive advantage. The information the Petitioners are

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<sup>7</sup> *In the Matter of the implementation of the Telecommunications Act of 1996; and Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No 96-115, Third Report and Order and Third Further Notice of Proposed Rulemaking, Released July 25, 2002.

requesting the LECs submit to them discriminates against the customer and results in anti-competitive behavior for the IXC's that receive additional information.

In sum, the Oklahoma RTCs request that the Commission reject the Petitioner IXC's' request to implement mandatory minimum CARE standards for all local and interexchange carriers. The Petitioner IXC's have submitted a self-serving proposal to benefit the IXC's bottom line at the expense of the LECs. The Commission's adoption of the proposed CARE guidelines are counter to a healthy competitive environment; interfere with existing contractual arrangements; contrary to the purview of the Act; do not provide compensation to the LECs; are unduly burdensome; and are anti-competitive.

Finally, the Oklahoma RTCs look forward to participating to the fullest extent in this proceeding, including the presentation of *Ex Parte* comments to further elaborate on the issues discussed herein.

Respectfully submitted,

OKLAHOMA RURAL TELEPHONE COMPANIES

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